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OFFICE B^o ಪ್ರ.ಸಂ

STATION Madras

ಸಂ No. 639

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Dated 23 2 31 03 6377

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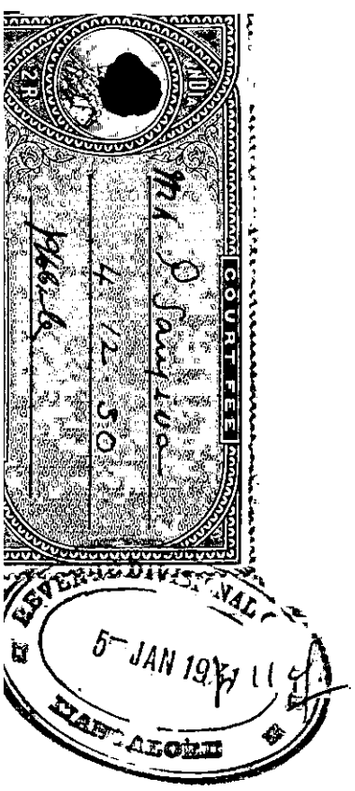
(SUBJECT.)

Encroachment land (8 Kanara)
Mangalore Tq Tumbe v/o S.no 281/8
Manjappa ... Objector
Mrs J.F. Coelho Owner

RP69
'31.3.R

B6399

The Honorable Commissioners of the Board of
Revenue, Chepauk,
MADRAS.



Humble Petition of Mrs.J.F.Coelho widow of Mr .Ambrose Mascarenhas, residing near Milagres Church, Mangalore, South Kanara,

Dated 1st December 1930.

Most Respectfully sheweth,

That being highly aggrieved by the order of D.Dis.No. 11287-29 dated 25-2-1930 of the Collector of South Kanara cancelling the eviction order and dropping the Encroachment Proceedings in connection with S.No.28/8 (Poromboke Tank portion) of Thumbe village, Mangalore taluk, the Petitioner abovenamed humbly begs leave to approach this Board for proper reliefs and adequate redress under the following circumstances.

2. That the Petitioner is the holder of Pattas Nos. 8 and 9 of Thumbe village, Bantval, paying an assessment of Rs. 177-4-0 per annum to Government, and in the kadim warg lands appertaining thereto there is a deep poromboke Tank measuring 32 cents which irrigates the lands of several wargdars, and which is the only source of water for the cultivation of Petitioner's extensive paddy fields.

J.F. Coelho

3. That as one of the neighbouring wargdars Manjappa Melanta began to fill up a portion of the said Poromboke tank and plant cocoanut plants thereon, the Petitioner sent a petition dated 14-11-1928 to the Deputy Tahsildar, Bantval, praying for the planting of Survey Stones to demarcate the tank at her cost, and for institution of Encroachment Proceedings for the immediate removal of the encroachment and restoration of the tank to its original state.

4. That after due enquiry the Deputy Tahsildar of Bantval in Encroachment Case No.11/38 issued Notice dated 20-5-1929 under Section 7 of the Encroachment Act to the said Manjappa Melanta to remove the encroachment on 6 cents of the aforesaid Poromboke Tank.

5. That the appeal preferred by the said Manjappa Melanta against the Notice of the Deputy Tahsildar was also dismissed by the Revenue Divisional Officer, Mangalore as per D.Dis.3655-29 dated 20-8-1929 on the ground that the Deputy Tahsildar has found on inspection that the major portion of the Encroachment is quite recent and objedtionable; and he was served with a notice dated 20-8-1929 directing him to remove the said encroachment

6. That subsequently Petitioner was given to understand that on the application of the said Manjappa Melanta the eviction order was cancelled and the encroachment proceedings were ordered to be dropped as per D. Dis. No. 11287-29 dated

F. J. Coelho

25-2-1930 of the Collector of South Kanara.

7. The Petitioner humbly begs to submit that she had no notice either of the appeal or revision filed by the said Manjappa Melanta, and as such it took some months to secure certified copies of the orders passed in appeal and revision, and to approach this Honorable Board. Hence the delay may be excused.

8. That the Deputy Tahsildar of Bantval and the Revenue Divisional Officer, Mangalore were satisfied after personal local inspection and from the records of enquiry and the explanations furnished by the said Manjappa Melanta, that it was a clear case of encroachment on Poromboke Tank but evidently the Collector had not all the facts before him and was misled by the one-sided misrepresentations made by the said Manjappa Melanta.

9. That the said Poromboke Tank has been from time immemorial a source of water supply to a large number of wargdars of the locality, and the encroachment of about 6 cents thereon is a great handicap to the neighbouring wargdars and would involve heavy loss and trouble to them. The encroachment has been found to be recent and objectionable by the Deputy Tahsildar and by the Revenue Divisional Officer, and as such the Petitioner has been constrained to approach this Honorable Board not only on her own behalf but on behalf of all the neighbouring wargdars who are adversely affected by the order of the Collector

J. J Coelho

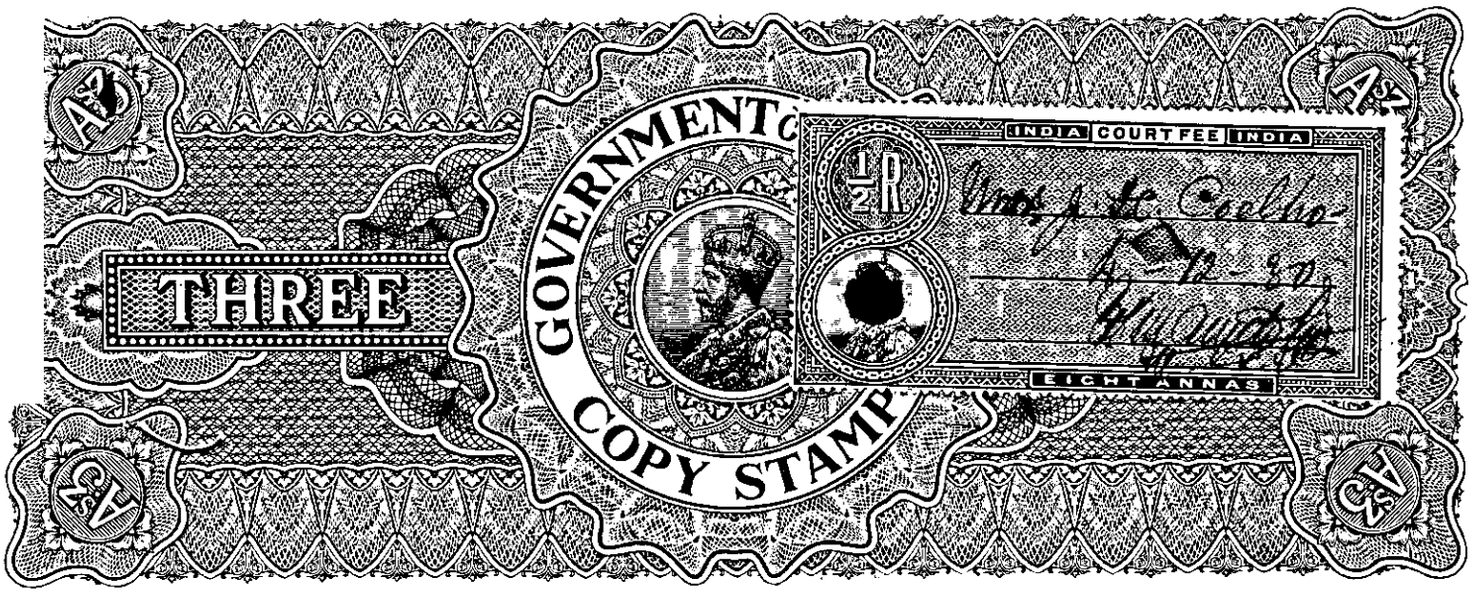
10. In these circumstances the Petitioner most humbly and respectfully prays that in the interests of public justice and equity this Honorable Board may be graciously pleased to call for the entire records of E.C. 11/38 on the file of the Deputy Tahsildar of Bantval, and the Appeal records in connection with D.Dis. 3655-29 dated 20-8-1929 of the Revenue Divisional Officer, Mangalore as well as those in connection with D.Dis.No 11287-29 dated 25-2-1930 of the Collector of South Kanara, and to cancel the order of the Collector and restore that of the Divisional Officer, Mangalore so that Manjappa Melanta may be immediately ordered to remove the encroachment.

For which act of kindness and justice the Petitioner and all the lagthi wargdars shall as in duty bound ever pray.

List of Documents filed.

1. 20-8-1929. Certified copy of Revenue Divisional Officer's order.

2. 25-2-1930. Certified copy of the Collector's order.



D. Dis 3655-29.

Proceedings of the Revenue Divisional officer, Mangalore Division, Dated 20th august 1929.

M.R.Ry M.S. Pais Avl.

Encroachment - Land - Mangalore Taluk - Tumbe village - S. No. 28/8 - Section 7 notice by Dy: Tahsildar - appeal petition of Manjappa Melanta - orders passed.

Read:- (1) Bantwal Dy: Tahsildar's report No. Dis 2230-29 dated 12-8-29. (2) Appeal petition dated 7-8-29 and (3) the records of E.C. 11/1338.

Order

The Dy: Tahsildar has found on enspection that the major portion of the encroachment is quite recent and objectionable. The appeal is dismissed.

Signed M.S. Pais.
Revenue Dvl officer
20.8.29.

2860

6.10 30

Mr. G. S. Rao & ors

D. A. Tequino

Total words 109

Application No. 418/30 for copy received on	10.10.30
Mrs J. F. Coelho	
Stamp papers called for	" 10.10.30
Stamp papers produced	" 10.10.30
Copy ready	" 31.10.30
Copy delivered or sent by post to	" 5.11.30

Copyist Ref Comparer Ref

31-10-30

Errors if any

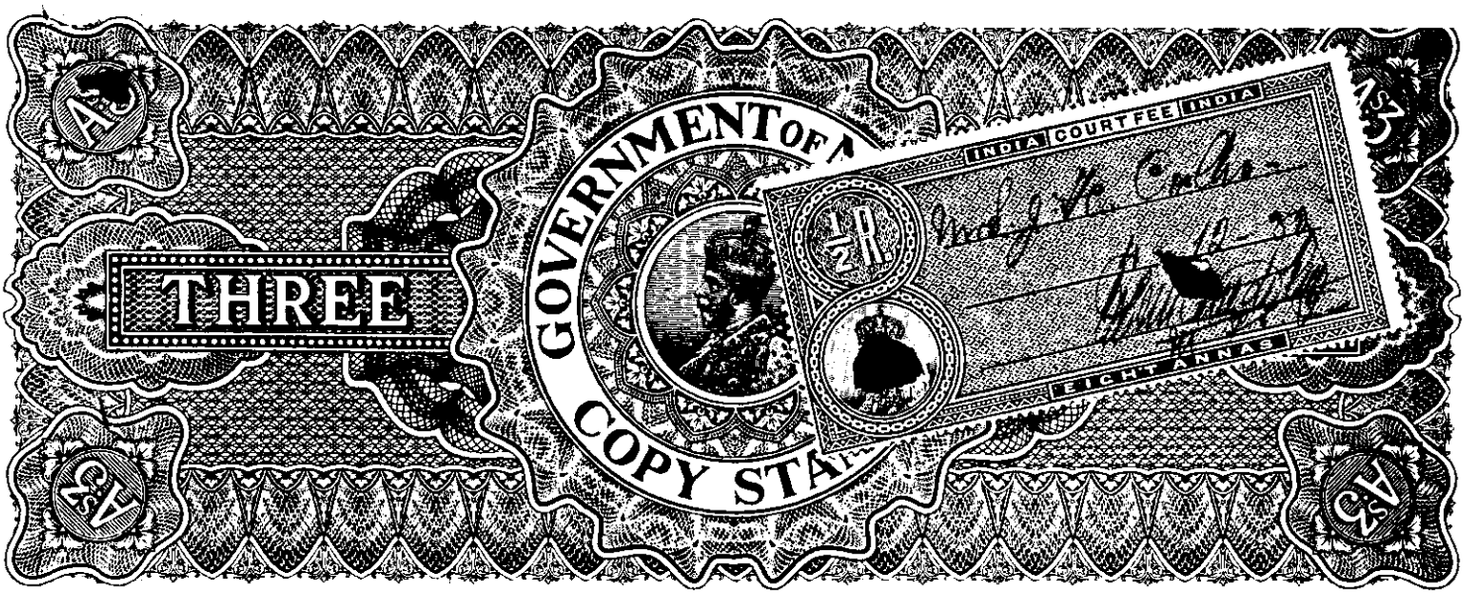
(Same copy on one sheet)

M. P. Meenakshi

Head Clerk

Mangalore Civil Office

SOUTH CANARA



D. Dis Nº 11287-29

Proceedings of the Collector of South Kanara,

Dated 25th February 1930.

G. W. Wells Esquire, I.C.S.

Encroachment - land - Mangalore Taluk Jumbe Village - S.N. 28/8 (Poramboke tank portion, 0-6 cents) - eviction - Appeal - Manjappa Melanta - Orders passed.

(1) Petition dated 16.11.1929 of Manjappa Melant - brother of Santhu Bhandary of Thumbe Village.

(2) Mangalore R.D.O's N. Dis 5171-29-B dated 15/1/93 Submitting Bantwal Dy Tahsildar's report N. Dis Nº 3333-29 dated 31-12-1929.

(3) The Connected records.

Order

The memorandum order is cancelled. The encroachment proceedings will be dropped.

2. × × ×

(Signed) H Sankar Rao
25.2.30
For Collector

M/485

M. M. Pop

D. S. Sagvi

Copy by Hd Comptly

[illegible]	140/30	7-4-30
[illegible]		—
[illegible]		7-4-30
[illegible]		10-4-30
[illegible] J. T. Cochin		11-4-30

Errors nil —

(True Extract)

By Collector

DEPUTY COLLECTOR'S OFFICE COCHIN

~~Assignment~~, Land (S. Kan
Encroachment

Mangalore taluk- Tumbe village
S.No. 28/8 objection petition Mrs. J. F. Coelho

Read - B.No. 6399/30 1930 (Q)
881-74

Reference No.B. 6399/30 dated

Forwarded to the Collector of S. Kanara for submission of the records with remarks on any allegations in the petition which are not clearly dealt with in the records.

13-12-30

13/12
13.12.30

To the Collector of S. Kanara
with petition and enclosures
(to be returned with reply)

13 DEC 1930

D.Dis.Lc.13021-30. South Kanara Collector's Office,
Mangalore, dated 6th February '31.

G. W. Wells, Esquire, L.A.,I.C.S.,
Collector of South Kanara.

The Secretary to the Board,
Land Revenue and Settlement,

Sir,

Encroachment - land - (South Kanara) - Mangalore Taluk - Tumbe village - S.No.28/8 - Mrs. J.F. Coelho - objection petition to the Board - Report submitted.

Board's reference No. B.6399/30 dated 13-12-1930.

I respectfully herewith the objection petition of Mrs. Coelho together with its enclosures received with the Board's reference quoted above.

2. S.No.28/8 of Tumbe village, Mangalore taluk, stands registered as Poramboke tank. The plot marked A in the eye-sketch at page 7 of S.No.11/2 is the actual tank. The portions marked B and C are the encroachments to which the petitioner takes exception. The plot B is a paddy flat lying barren and C is an old bund which was strengthened with mud by the encroacher by raising its level by about one foot.

3. The Deputy Tahsildar, Central instituted encroachment proceedings in this case. In the course of these proceedings the encroacher preferred an appeal to me against the eviction order issued by the Revenue Divisional Officer, Mangalore under section 6 of the Land Encroachment Act. I found from the records of enquiry that the tank was in an abandoned condition and there was not a drop of water in it. The bund marked C that was strengthened was only an old bund that already existed before. The plot B has been lying waste for several years past. Hence there was thus practically no encroachment with the name. At the most the encroachers

tanks are not Government irrigation tanks and they must have been subdivided at the time of settlement at the request of the adjoining landholders. I considered it wrong to apply the Land Encroachment Act to a case like this when Government or important public interests were not involved and there was nothing to denote any effective occupation. I therefore ---- cancelled the eviction order in my D.Dis.11287-29 dated 25-2-1930.

4. The petitioner has rather exaggerated her grievances. That the so-called encroachment is a great handicap and a source of trouble to the neighbouring land holders can hardly be believed in view of the fact that the tank has no perennial supply water and the water therein dries up soon after the cessation of the rains. I do not think that the petitioner has any real grievance.

5. The records noted in the margin are enclosed.

1.Huzur D.Dis.11287-29.
2.Rev.Divl.Officer's D.Dis. 3675-29.
3.Dy.Tahsildar's E.C.11/38.

Your obedient servant,

Ramakrishnaiah 9.2.31.

For Collector.

Subject.— R. F. XXII-A-19—89,500 22-4-30 (6)

FOR MEMBER Encroachment land. (S.Kanara) Mangalore Tk.
Tumbe vill S no 28/8 Thangappa Malanta
objects perm mrs. J.F. Coelho orders
passed

READ AGAIN B. P. No. _____, dated _____ 193

" " " _____, " _____ 193

READ ALSO :—

Register No. _____, From the B 6399/30 - H 1 No. 4 } dated _____ 193
" " _____, " " B 922/31 - H 1 5 & 16 4 } Q " _____ 193

" " _____, " " _____, " _____, " _____ 193

RESOLUTION. (Mis) No. 639, dated 23-2 193

The Dy. Tahs. reported after inspection that the bund put up by the southern extremity of L.N.D was near. This report is confirmed by the SD survey Mess and considers that step should be taken under the Land Encroachment Act to remove the bund. The petitioner is referred to the Collr of S.Kanara for orders

19.2.31.

19.2.31

23/2

The Collr of S.Kanara with records and petition of
The Petitioner (Mrs. J.F. Coelho 4/16 of new Milagres church, Mangalore, S.K.
(Para 2 orig)

Encroachment. Land. (S. Kanara)

Mangalore Tk Number village

S no 28/8 Objection petn - Mrs

J. F Coelho

B 6399/30 - Writ of

To Aj.

p1 of The cstk's order petitioned against was passed on 25.2.30. The petr

p12 of got a copy of it on 11.4.31

Some six months after, the appln

p10 of for a copy of the R Do's order, on 10.10.30 and got it on 6.11.31

In the present petition she states

(illegible) p3 of that she had no notice either of the appeal to the R.Do or the revision to the order filed by the encroacher and as such it took some months to secure certified copies of the orders passed in appl & revision. She, therefore, requests that the delay may be excused. It may be noted that this explanation is not satisfactory as, it appears the delay of 6 months in applying for a copy of the R. Do's order after the receipt of the copy of the cstk's order. However

as this is only a revision petition and not a regular appeal in which case alone time-limit has been prescribed, it may be dealt with and considered on its merits.

12-12-30.

The Court does not give any reasons for cancelling the R.D. order of even date and the record sent forthwith. Records may be called for before final orders are passed.

12-12-30

S

11.12.30

To AS (L.R.).

Draft sent

13.12.30

13.12.30

Board's ref-no B6399/30 - 1.J 13.12.30

B922/31

To AG

The Collr. has sent the records with a report.

The petn. brought to notice the

the Manjappa Melanta was
filling up a portion of the
pernambake tank in S. no 28/8
of Tumbe village
the only source of irrigation
for her avg lands. The D.H.
when her petn was sent for
report sub: a sketch and
reported that only the portion
marked A in the sketch contained
the actual tank, that there was
an old bund along the southern
extremity of portion A, that
Manjappa Melanta had strengthened
the bund by raising it to a
height of one foot and that the
portion marked B had been
included within the limits of the
old [illegible] being waste. He was of the opinion
that the inclusion of portion 'B'
in the tank pernambake was a
mistake at the [illegible] The
Dy. Tahs. also reported
the [illegible] however, that
the construction of the tank bund
was old and that portion 'B'
must have been encroached upon

from time to time. He instituted encroachment proceedings & when the encroachment was not removed the Revenue ordered eviction. Mayappa Melanta then appealed to the Collr., setting up wrong claim to portion B: and the Collr. cancelled the eviction order for the reasons set forth in his present report

It is doubtful whether the Collrs order can be upheld. As pointed out by the Dy. Taluk. of the land existed at Settt as at S. No 28, 8 would not have been ab. awarded as tank y. n. ice. Mayappa Melanta must have raised the level of portion B after the Settt and must have thinking it in time to time and in order to set up a wrong claim must have put up the land between portion A (at 2 tanks) and portion B He did not go to the wrong claim in his appeal petition to the Collr. It is not known whether plot B was cultivated previously & the cultivation brought to B memo. The Collr. dropped the eviction proceedings because the plot is lying waste; but the land

newly put up is an encroachment and has, it seems, to be removed. No plea that no Govt or important public [illegible] is involved applies only to cases of encroachments channels [illegible] the case of private lands. In order

K.1 The Collector found that there was no effective occupation and that it was wrong to apply the Land Encroachment Act. Accg. to the Coll'r the petitioner has no real grievance. The Coll's order may be upheld and the complaint petition dismissed.

Para 2 of the order at p. 17 of (III) & pp 15 & 16 of

18/2/31

17.2.31. S We have conflicting reports: R.I. (p. 2 of (J)) says the bund is old & the land useless: Dy. Tahs. says it is new (p. 4 of (S)). Both inspected it. I shld. accept the Dy. T.'s report, wh is confirmed by old surveys, &

A. M/18.231.

Ins.

J. AS (L.R.)

Draft rec'd.

19.2.31

19.2.31